IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Appln. No. 670 of 2005

Ganga Ram Patwal
S/o Sri Nathu Lal Patwal
R/o Village Pachri, Pauri – Dharmandal,
District – Tehri Garhwal

……Applicant

Versus

1. State of Uttaranchal.
2. Additional Sessions Judge/ F.T.C. II Nainital.

……Respondents

Mr. Rajendra Kotiyal, Advocate for the Applicant.
Mr. Nandan Arya Govt. Advocate for the respondents.

Hon'ble Prafulla C.Pant, J

By means for this petition, moved under Section 482 / 407 of the Code of Criminal Procedure, 1973, the applicant has prayed that criminal case No. 06 of 2000; State Vs. Ganga Ram Patwal, be transferred from the court of Additional Sessions Jude/ Fast Track Court II, Nainital to the court of Special Judge, Dehradun, which was created vide Notification dated 24.05.2005. By said Notification, the jurisdiction of the court at Nainital as to the cases pending therein has not been taken away, as such, merely on that ground, the criminal case cannot be transferred, particularly, when it is at the concluding stage of Section 313 of the Cr.P.C., 1973 However, the applicant has challenged the impugned order dated 09.09.2005 passed by the learned Additional Sessions Judge/ Fast Track Court-II, Nainital in

aforesaid case, whereby the process for recovery of the amount mentioned in the personal bond has been directed to be realized. To that extent, the impugned order is not sustainable in law as a notice is required to be issued before the realization of the amount in bond, under Section 446 of the code.

2) Accordingly, the petition under Section 482 of the Code of Criminal Procedure, 1973 is partly allowed to the extent quashing the order directing realization of the amount mentioned in the personal bond without issuing notice under Section 446 of the Code. In respect of the rest of the prayer, the petition is dismissed. It is clarified that the trial court is at liberty to proceed after service notice under section 446 in accordance with law.

(Prafulla C.Pant, J.)

Dt. 3rd October, 2005.
H.Negi